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AUG 22 2005

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|                               |   |                               |
|-------------------------------|---|-------------------------------|
| In re Application of          | : |                               |
| A. Maxwell Eliscu             | : |                               |
| Application No. 09/667,391    | : | <b>DECISION ON PETITION</b>   |
| Filed: September 20, 2000     | : | <b>TO WITHDRAW THE</b>        |
| For: SYSTEM FOR AND METHOD OF | : | <b>HOLDING OF ABANDONMENT</b> |
| HANDLING REFERRALS FROM       | : |                               |
| REFERRING PARTIES             | : |                               |

This is a decision on applicant's renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on October 07, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed January 13, 2004, which set a three-month shortened statutory period. A Notice of Abandonment was mailed on September 30, 2004 stating that no reply was received.

Petitioner contends that a response was filed on April 12, 2004 by mail. In support thereof, petitioner submits, a copy of a returned postcard receipt stamped by the Patent and Trademark Office on April 14, 2004. The postcard submitted is insufficient evidence of a timely reply as the April 14, 2004 stamp date is more than three months from the January 13, 2004 date of mailing of the Office action.

The copy of the response bears a Certificate of Mailing signed by Paul S. Hunter and dated April 12, 2004.

In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of

Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this instance Paul S. Hunter.

It is noted that if Applicant is unable to satisfy the requirements for Certificate of Mailing outlined above that the copy of the response bearing the postcard receipt stamped April 14, 2004 included authorization to charge deposit account 50-2350 for any necessary extensions of time required. Applicant's response would be considered timely filed relying upon the April 14, 2004 date with a one-month extension of time.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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SNM/rjc      08/02/05